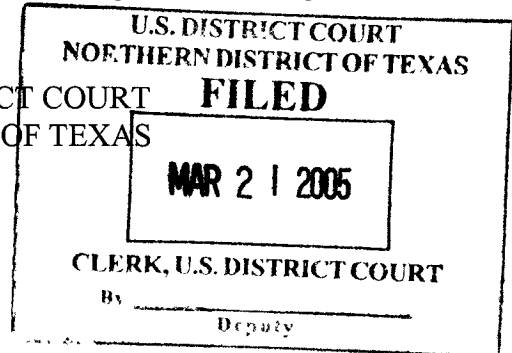


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION



HENNESSEY HUNT,

Petitioner,

v.

DOUGLAS DRETKE, Director,  
Texas Department of Criminal  
Justice, Institutional Division,

Respondent.

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2:05-CV-0021

**REPORT AND RECOMMENDATION TO DISMISS**  
**PETITION FOR A WRIT OF HABEAS CORPUS**  
**FOR FAILURE TO PAY THE FILING FEE**

Petitioner HENNESSEY HUNT has filed a Petition for a Writ of Habeas Corpus by a Person in State Custody. Such petition was originally filed with the Eastern District of Texas, Tyler Division, was subsequently transferred to the Northern District of Texas, Dallas Division, and thereafter transferred to this Court.

Petitioner did not submit with his habeas application any payment to satisfy the requisite filing fee but, instead, submitted evidence that he had authorized his institution to disburse the requisite funds from his trust account by properly completing and submitting to the prison a Form I-25 entitled "Inmate Request for Withdrawal." Such Form I-25 was dated November 23, 2004 and requested payment to the Eastern District of Texas, Tyler Division.

On February 7, 2005, this case was ordered held in abeyance for thirty (30) days, pending receipt of the filing fee. Petitioner was admonished that if no payment had been received at the

end of the 30-day time period, the case would be subject to dismissal for failure to pay the requisite filing fee. Petitioner was further advised that it is his responsibility to monitor the disbursement of the requisite funds from his trust account, and ensure that such funds have been withdrawn and transmitted to this Court (or to the Eastern District of Texas, Tyler Division). Finally, petitioner was ordered to advise this Court, prior to the expiration of the 30-day period, as to any legitimate reason why the funds would not be received within the time period. Petitioner has failed to so advise the Court and the filing fee has not been received by this Court or by the Eastern District of Texas, Tyler Division. Based on the foregoing, it is recommended that petitioner's petition for a writ of habeas corpus be DISMISSED.

RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that the Petition for a Writ of Habeas Corpus By A Person In State Custody filed by petitioner HENNESSEY HUNT be DISMISSED.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a file-marked copy of this Report and Recommendation to petitioner by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 21<sup>st</sup> day of March 2005.

  
CLINTON E. AVERITTE  
UNITED STATES MAGISTRATE JUDGE

**\* NOTICE OF RIGHT TO OBJECT \***

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the file mark on the first page of this recommendation. Service is complete upon mailing, Fed. R. Civ. P. 5(b), and the parties are allowed a 3-day service by mail extension, Fed. R. Civ. P. 6(e). Therefore, any objections must be **filed on or before the fourteenth (14<sup>th</sup>) day after this recommendation is filed.** See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled "Objections to the Report and Recommendation." Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. See *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).